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Extract from Zachary Seth Brugman, *The Bipartisan Promise of 1776: The Republican Form and Its Manner of Election* (2012) (unpublished manuscript), citing Teachout-Tillman exchange, and acknowledging Tillman

Seth Barrett Tillman

In Federalist 60, when Hamilton acknowledged that, “there is no method,” or manner of election that would advantage the rich in 1787, “but by prescribing qualifications of property either for those who may elect or be elected,”³¹⁸ what he really meant was that nothing besides the vote would influence representation for those not excluded from the franchise. Such characterizes the free government implied by the very first three words that begin the Constitution.³¹⁹ Like the States in the Senate, as illuminated by Sherman, the rich and the poor are to have an equal vote and synonymously equal representation.³²⁰

Thus, the *principle of a free and equal electoral process* underlying the republican form, demands that one vote bring the same level of representation for every citizen, that only the vote secures representation. As we learned from the debate where the Framers provided the labels of corruption and aristocracy to an election mode which would have made the President dependent on the Senate, even while simultaneously depending on the People – it is simply inconsistent with republican government to form any relationship of dependence to attain office, other than *full dependence on the suffrages of the People*.³²¹

This principle of a free and equal electoral process that inheres in the Constitution along with Federalism, the Separation of Powers, and the protection of those unalienable rights we waged a Revolution for,³²² is to prevent a situation similar to the eighteenth century ‘*English manner of holding elections*,’ where “the result,” undue influence of the crown in Parliament, was “influenced by the mode,” the crown’s purchase of “placemen” from “rotten boroughs.”³²³ And recall that this ‘aristocratic electoral process’ of England did not provide a cure for the maladministration in British government, as the impure elections directly resulted in the crown’s undue-influence in Parliament, the precise cause of the maladministration central to motivating our Independence.³²⁴

Here lies the extreme danger to the republican system of a perverted electoral process. It is altogether impossible for elections to be the “natural cure for an ill-administration, in a popular or representative constitution,” when the process which precedes the casting of votes is dominated by wealth. In today’s age of the ‘electoral two-step,’ elections cannot cure government maladministration because the maladministration is a product of the *dependence on the 1%*, and the legislative body cannot purge bad actors because all must conform to the diseased electoral process (or be replaced by candidates who will).³²⁵

³¹⁸ See, Federalist 60, bottom of p.38, and especially the middle paragraph of p.47, with Story’s analysis.

³¹⁹ See, Montesquieu, Vattel, and Sam Adams, notes 21 and 22, at p.6; and part 2 generally, pp.11-15.

³²⁰ See, the bottom paragraph of p.20, especially n.86; and n.61, p.14.

³²¹ See, p.33.

³²² The principle of a free and equal electoral process might be called the “anti-corruption principle.” It has. See, Zephyr Teachout, *The Anti-Corruption Principle*, 94 CORNELL L. REV. 341, 354 (2009). While there have been arguments made to limit this principle, see Seth Barrett Tillman, *Citizens United and the Scope of Professor Teachout’s Anti-Corruption Principle*, 107 Nw. U. L. Rev. 399, (2012), it would seem as if limiting the preservation of the republican form, the form that best protects inalienable rights, see p.3, would be an implicit rejection of the form and the majority principle that defines it; see Lincoln, n.65, p.16.

³²³ See, “result/mode,” bottom p.48; British corruption, notes 56-58, pp.13-14; n.134, p.30; & n.144, p.32.

³²⁴ See, Federalist 56 and Burgh, p.12; n.74, p.18; & p.31.

³²⁵ See, p.28, Federalist Nos. 15, 6 & 66. Members of Congress, individually yet collectively, must navigate through our campaign finance system, and are therefore members of a unique campaign culture that is defined by the desire to retain office, or “survive.” In competing along with “the pack,” representatives become less aware of their own actions – or, have to perform actions they would not otherwise undertake – in order to retain office. For if the “pack behavior” is not followed, one will be disadvantaged and will